

## Process for Requests for REASONABLE ACCOMMODATION

### Policy:

Effective Date: April 3, 1998. It is the policy of the City of San Jose to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning laws, policies, and processes. A person with disabilities is someone who has a "physical or mental impairment which substantially limits one or more of such person's major life activities." Laws, which protect persons with disabilities against discrimination, include within their protection, persons who are recovering from addictions to alcohol or narcotics so long as they are not currently using the substances.

### Process:

If no other land use permit is required, you may submit a request for Reasonable Accommodation directly to Planning's public information counter in Room 400, City Hall, 801 North 1<sup>st</sup> Street, San Jose, 95110. Staff can FAX you a copy of the application by calling the Planning Division at 408-277-4576. If a land use permit is also required, then the request for Reasonable Accommodation should be submitted concurrently with the land use permit (e.g., Conditional Use Permit). When submitted concurrently, the procedure will be the same as for the land use permit and you should refer to the land use permit application for the appropriate procedures, including noticing and hearing. Typically, such permits require an appointment for submittal.

### Procedure:

1. The applicant submits a Request for Reasonable Accommodation along with associated application fee and 300 foot radius noticing fee (see Filing Fee Schedule).
2. Within **thirty (30)** days of the application, a Notice of Decision will be issued by the Director of Planning and mailed to the applicant, adjacent property owners/occupants and any requesting party. During the thirty day time-frame, additional information may be requested by staff and a site visit may be scheduled.
3. Within ten (10) days of the Notice of Decision being mailed, any person may make a request in writing for a Director's Hearing. If no request is received, then the decision of the Director of Planning will be final.

4. If a hearing is requested, such hearing will take place at the next reasonably available Director's Hearing. Director's Hearings are scheduled every Wednesday (except for the first Wednesday of the month) in the City Council Chambers at 10:00 a.m. The Director shall issue a decision granting the request, including any reasonable conditions, or denying the request and include the Director's factual findings, conclusions and reasons for the decision. The decision will be mailed to the applicant and adjacent property owners and/or occupants.
5. Within thirty (30) days of the Notice of the Director's decision, any person may appeal in writing to the Planning Commission. Any such appeal should be mailed to the Planning Commission in care of the Department of Planning, Building and Code Enforcement. All appeals shall contain a statement of the grounds for appeal.
6. The Planning Commission shall hold a Public Hearing on the appeal. Planning Commission public hearings are held on Wednesdays, either during the afternoon or evening on the 2nd and 4th Wednesdays of the month. The decision of the Planning Commission shall be final. Copies of the resolution of the Planning Commission decision will be sent to the applicant, the appealing party, and any adjacent property owners and occupants.

***See page 2 for a flowchart of the Process.***

### Grounds for Reasonable Accommodation:

In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

- Special needs created by the disability
- Potential benefit that can be accomplished by the requested modification
- Potential impact on surrounding uses
- Physical attributes of the property and structures
- Alternative accommodations which may provide an equivalent level of benefit
- In the case of a determination involving a single family dwelling, whether the household would be

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considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents

- Whether the requested accommodation would impose an undue financial or administrative burden on the City
- Whether the requested accommodation would require a fundamental alteration in the nature of a program

## Definitions:

The following definitions (Chapter 20.200) may be helpful to review prior to applying for a Reasonable Accommodation Request:

**Dwelling, one family** or one-family dwelling is a detached building of permanent character placed in a permanent location which is designed or used for residential occupancy by one family. A single mobilhome on a foundation system on a single lot is included within this definition. All rooms within a one-family dwelling must be integral to each other.

**Family** is one or more persons occupying a premises and living as a Single Housekeeping Unit.

**Residential Care Facility** is a facility licensed by the State of California where care, services, or treatment is provided to persons living in a community residential setting.

**Residential Service Facility** is a residential facility, other than a Residential Care Facility or a Single Housekeeping Unit, where the operator receives compensation for the provision of personal services, in addition to housing, including but not limited to, protection, supervision, assistance, guidance, training, therapy or other non-medical care.

**Single Housekeeping Unit** is the functional equivalent of a traditional family; whose members are a nontransient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas, and sharing household activities and responsibilities such as meals, chores, and expenses.

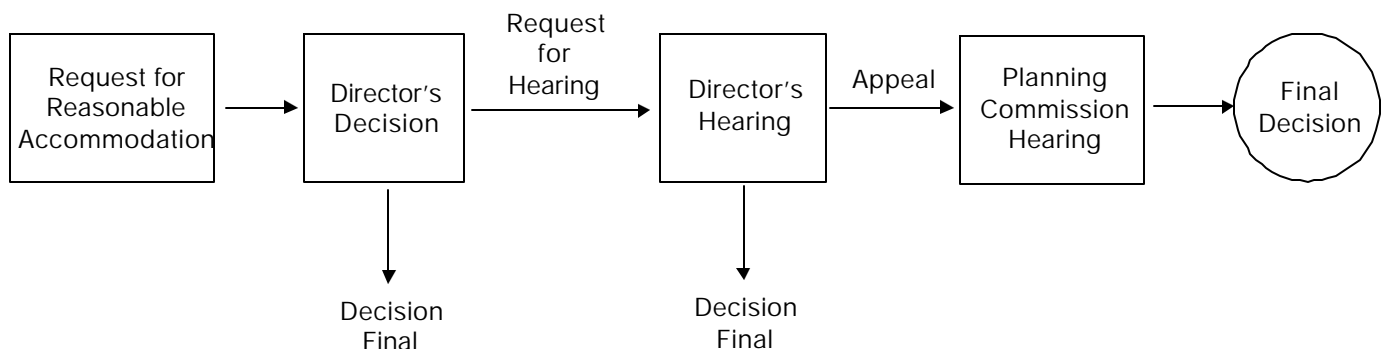
## Zoning Districts:

A request for Reasonable Accommodation may be submitted on behalf of any disabled person(s) from any City of San Jose Zoning Code provision or policies. The attached table, entitled "Table-A", provides a general guide to uses and the appropriate zoning districts.

**Any questions regarding the Reasonable Accommodation procedure should be addressed to the City of San Jose, Department of Planning, Building, and Code Enforcement at 408-277-4576.**

**To arrange an accommodation under the Americans With Disabilities Act to participate in any public meeting, please call 408-277-4576 (VOICE) at least 48 hours before the meeting.**

## REASONABLE ACCOMMODATION PROCESS FLOWCHART



**PLEASE NOTE: THIS APPLICATION MUST BE HAND-DELIVERED TO ROOM 400, CITY HALL ANNEX.**  
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**TABLE A**

USE/ZONING DISTRICT	R-1	R-2	R-M	R-MH	COMMERCIAL
Single Family Dwelling (Single Housekeeping Unit)	P	P	P	CUP	No
Residential Care Facility ≤6 (State License)	P	P	P	P	No
Residential Service Facility ≤6 (No State License)	P	P	P	P	No
Residential Care Facility >6 (State License)	No	No	CUP	CUP	CUP
Residential Service Facility >6 (No State License)	No	No	CUP	CUP	CUP

**P -Permitted**

subject to requests for Reasonable Accommodation.

**No -Not Permitted**

CUP -Conditional Use Permit

Note: Zoning Ordinance provisions are

CITY OF SAN JOSE

2. Please provide information regarding each of the following criteria:
- a. Special needs created by the disability.
  - b. Potential benefit that can be accomplished by the requested modification.
  - c. Potential impact on surrounding uses.
  - d. Concise physical description of the property. Please attach floor plan and site plan (need not be to scale, but please dimension site plan and indicate parking).
  - e. Alternative accommodations which may provide an equivalent level of benefit.
  - f. In the case of a determination involving a single family dwelling, whether the household would be considered a Single Housekeeping Unit if it were not using special services that are required because of the disabilities of the residents.
  - g. Whether the requested accommodation would impose an undue financial or administrative burden on the City.
  - h. Whether the requested accommodation would require a fundamental alteration in the nature of a program.

**REASONABLE ACCOMMODATION REQUEST****3. Other Information:**

- a. Do you have a county, state or federal license or certification with respect to the use of property? If yes, attach a copy of applicable document(s). ☐ Yes ☐ No
- b. Are any alterations planned to the property? If yes, please describe. ☐ Yes ☐ No
- c. Will the property be identified by a name or sign? ☐ Yes ☐ No
- d. Will the property contain a staff office? ☐ Yes ☐ No
- e. Does the property have on-site parking? If yes, how many spaces? \_\_\_\_\_ ☐ Yes ☐ No
- f. Please describe all services to be offered on the premises:
- g. Do you provide services at the property to non-residents? ☐ Yes ☐ No
- h. Proposed maximum number of residents on the property:  
Adults: \_\_\_\_\_ Children: \_\_\_\_\_ Typical length of stay for residents: \_\_\_\_\_
- i. Proposed number of staff members:  
Total Staff: \_\_\_\_\_ Resident: \_\_\_\_\_ Non-Resident: \_\_\_\_\_
- j. Have any neighbors been contacted regarding this proposal? If yes, describe how they were contacted. ☐ Yes ☐ No
- k. If neighbors have immediate concerns regarding residents or the operation of the facility, who should they contact?  
Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

4. Please attach a list of the adjacent property owners. Adjacent is defined as sharing a property line or located directly across the street from the proposed location. You will also need to provide two (2) sets of stamped envelopes addressed to the adjacent property owners and occupants. A self help area is available at the Planning Department to assist you in locating property owner addresses. Please do not include a return address on the envelopes as Planning staff will use the envelopes to mail the required notices.

Signature of Applicant

Date

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## REASONABLE ACCOMMODATION REQUEST

Date: \_\_\_\_\_

Recommendation(s) of the Advisory Committee:

The recommendation of the Advisory Committee on the request for a Reasonable Accommodation Request is to:

☐ Grant

☐ Grant with Conditions

☐ Deny

If the Advisory Committee recommends to the Grant with Conditions, the following terms apply:

The request for a Reasonable Accommodation is:

☐ Granted

☐ Granted with Conditions Noted Below

☐ Denied

Findings:

Signature

Date